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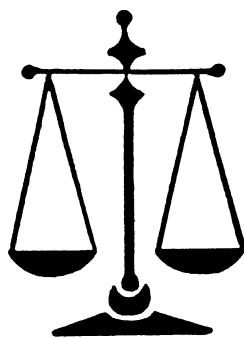
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**A SUMMARY OF SELECTED BILLS  
TRULY AGREED TO AND FINALLY PASSED**

**By The  
86th General Assembly  
First Regular Session**



**Prepared By  
Office of State Courts Administrator  
July 1991**

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## INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts, or which appear likely to come to the attention of the courts within a short time. The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

The bills are arranged by subject matter; both a table of contents listing the bills by number, and an index, are provided at the front of the report.

Except for the bills marked "vetoed," all bills included in this summary have been signed by the Governor. Signed bills become effective August 28, 1991, unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

For a copy of any bill, please direct your request to:

Senate Bill Room  
State Capitol  
Jefferson City, Missouri 65101

House Post Office  
State Capitol  
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

# **CIVIL**

## **HCS SS SCS SB 53 UNFAIR TRADE PRACTICES**

This bill amends the Unfair Insurance Practices Act to conform more closely to the model acts on which the act is based. Most insurers and entities doing business of an insurance nature are covered, including health maintenance organizations, health service corporations and Chapter 383 (malpractice insurance) insurers, but excluding Missouri mutuals.

The bill separates sections regulating unfair trade practices and unfair settlement practices and provides monetary penalties for violations of those sections.

Insurers and persons engaged in the business of insurance will be guilty of an unfair insurance practice if they act in conscious disregard of the unfair trade practice act or the unfair claims settlement practices act, or if the practice is committed with such frequency as to indicate a business practice. The current definition of unfair discrimination is also broadened to include discrimination based on age, marital status, race, sex, religion and physical or mental impairment.

Provisions relating to judicial review of the orders of the Director of Insurance are amended to allow the court to review a finding that a violation has occurred, or a finding that it has not occurred. The act specifically prohibits civil causes of action based on either the unfair trade practices act or the unfair claims settlement practices act.

Sections 325.035, 375.930, 375.932, 375.934, 375.936, 375.937, 375.938, 375.940, 375.942, 375.944, 375.946, 375.947 and 375.948, RSMo 1986, and 375.949, RSMo. Supp. 1990

## **SB 138 LAND TITLE ACTIONS**

Changes the age of majority for land title actions from twenty-one to eighteen and the length of time within which an action may be commenced from twenty-four to twenty-one years.

The legislation also provides a statutory basis for property owners who do not have a legally enforceable, reasonable and practical access to a public road, to petition the circuit court to secure access to a public road through neighboring property.

The legislation provides that no cause of action may be brought for the failure to disclose that real property was "psychologically impacted real property,"



i.e., a property where the previous occupant had AIDS or where a murder or suicide had occurred.

Sections 228.340, 228.350, 228.360, 228.370, 228.380, 228.390, 228.400, 228.410, 228.420, 228.430, 228.440, 228.450, 228.460, 228.470, and 228.480, RSMo 1986, and 37.005 and 516.030, RSMo Supp. 1990

## **HCS HB 80 TAXATION**

This bill relates to state taxes for out-of-state employers. It allows any circuit court in this state to issue a writ of attachment or other injunctive relief against any business or individual, including transient employers, which make retail sales before they receive their retail sales tax license or if they make sales after their license has been revoked by the Director of Revenue.

## **HB 236 WRONGFUL DEATH SUITS**

Allows the "surviving lineal descendants of any deceased children" to file a wrongful death action in the same priority as the spouse, children or parents of the decedent.

Section 537.080, RSMo 1986

## **SCS HCS HBs 385, 386, 387, 389, 390, & 451 INSURANCE REGULATION**

This legislation is a comprehensive revision of insurance law. It also creates the "Insurers Supervision, Rehabilitation and Liquidation Act." Delinquency proceedings may be brought either in the Circuit Court of Cole County or in any county where the principal office of the insurer is located.

This bill (202 pages) does not lend itself easily to summarization but would be best read in its entirety by those affected.

Sections 374.160, 374.220, 374.269, 375.171, 375.173, 375.610, 379.200, 379.203, 385.070, RSMo 1986, and 375.246, 375.774, 375.775, 375.779, 376.428, 376.738, 376.755 and 376.782, RSMo Supp. 1990

## **HB 403 LAND SURVEY ADVISORY COMMITTEE**

This bill creates the "Land Survey Advisory Committee." It also provides that no survey shall be admitted into evidence in court unless the survey is made by a registered surveyor and the survey is made based on monuments, United States Surveys or other units. This section expires on August 28, 1996.

Section 60.150, RSMo Supp. 1990

## **HB 549 LANDLORD/TENANT/SUMMONS**

Adds to the current law regarding service of summons in landlord-tenant rent and possession cases. Currently, a plaintiff may request, and a judge may order, an officer or other person empowered to execute the summons to serve the defendant by affixing a copy on the dwelling in question and by mailing a copy to the defendant's last known address. The act allows a plaintiff or his agent (who must be at least eighteen years of age) to serve the summons by posting and mailing as provided by law.

Section 535.030, RSMo 1986

## **COURTS**

### **SB 140 PERRY COUNTY TO 32ND CIRCUIT/JAIL COSTS/EDUCATIONAL SESSIONS**

Takes Perry County out of the 24th circuit and puts it in the 32nd circuit.

Provides that the circuit courts of the 23rd and 31st judicial circuits may establish a program of educational sessions for parties to actions for dissolution of marriage or in post-judgment proceedings involving custody or support of minor children.

Allows counties to set speed limits on certain highways.

Provides that the state shall reimburse counties for the actual cost of medical services for state prisoners housed in county jails according to the following schedule: Beginning July 1, 1992, not more than 20% of the actual costs; beginning July 1, 1993, not more than 40% of the actual costs; beginning July 1, 1994, not more than 60% of the actual costs.

Sections 478.135 and 478.155, RSMo 1986 and 221.105 and 304.010, RSMo Supp. 1990

### **CCS HCS SB 165 PERRY COUNTY/45TH CIRCUIT/JANITOR MESSENGERS**

This legislation takes Perry County out of the 24th circuit and puts it in the 32nd circuit.

It also creates a new forty-fifth judicial circuit, consisting of Lincoln and Pike Counties. The judge who sat in Division 3 of the former eleventh circuit shall be transferred to the forty-fifth circuit. The eleventh circuit shall consist of St. Charles County. An election to fill the vacancy in Division 3 of the eleventh circuit shall be held in 1992.

The legislation further provides that circuit judges in St. Louis City are only allowed to have a janitor-messenger if they are visually or otherwise physically handicapped.

Sections 478.103, 478.135, 478.155, 478.430, 478.600, 478.690 and 478.710, RSMo 1986

## **CRIME AND CRIMINAL PROCEDURE**

### **CCS HS HCS SCS SBs 125 & 341 INTOXICATION-RELATED TRAFFIC OFFENSES**

This is a broad revision of the DWI statutes including provisions which will:

1) count local DWI ordinance convictions as prior convictions if the judge was a lawyer and the defendant was represented by counsel or had waived the right to counsel; 2) further restrict hardship license availability; 3) strengthen the administrative revocation process; 4) impose a \$25 reinstatement fee to restore the license after the other penalties are completed in cases of DWI and BAC state or municipal violations where the judge was a lawyer and the defendant was represented by counsel or waived the right to counsel; 5) lower the blood alcohol content requirement to .10 from .13 for administrative suspension or revocation; 6) make it an infraction to consume any alcoholic beverage while driving a motor vehicle; 7) eliminate the provision that prohibited suspension or revocation based on a roadblock arrest without prior probable cause; 8) create the "Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services"; 9) change the conditions under which a suspended or revoked license may be reinstated; 10) extend the circumstances under which hardship licenses are given; 11) give a person requested to submit to a chemical test 20 minutes to contact an attorney, after which time it shall be deemed a refusal; 12) allow the court to assess as costs, in cases where a person pleads or is found guilty of a first offense DWI or BAC or alcohol or drug-related traffic ordinance violation, the expense involved in testing, arresting and holding said person; 13) grant immunity to property owners where an injured or dead trespasser was under the influence of drugs or alcohol, with exceptions; and 14) include municipal DWI violations in the abuse and lose law (where the judge was an attorney and the defendant was represented by counsel or waived the right to counsel)

and reduce the penalty for a first offense to a 90-day suspension (second or subsequent offenses are revoked for 1 year).

The legislation also allows traffic offenders to deposit a bond of fifty dollars per offense, in lieu of their driver's license, with the arresting officer. The officer will issue a receipt and deposit the bond with designated court personnel.

Most of the provisions of this bill have an effective date of July 1, 1992. There is an emergency clause for the provision reducing the penalty for a first offense abuse and lose violation.

Sections 199.010, 199.030, 199.040, 199.250, 302.505, 302.510, 302.520, 302.525, 577.023, and 631.020, RSMo 1986, and 302.060, 302.304, 302.309, 544.045, 577.041, 577.500, 577.510, 577.520 and 577.525, RSMo Supp. 1990

#### **SB 194 PUBLIC DEFENDER SYSTEM**

Prohibits municipal courts from requiring state public defenders to provide representation in municipal ordinance violation cases. This bill has an emergency clause; it was signed by the governor on 4/16/91.

Section 600.042, RSMo 1986

#### **HCS SCS SBs 293 & 313 MARITAL RAPE**

Repeals what is used as a defense in some rape and sodomy cases (i.e., the defendant is married to the victim) and states affirmatively that the rape and sodomy provisions apply to spouses. The bill also repeals language which defines persons as not being married when they are separated under certain circumstances.

An amendment adopted on the floor would make it a class B misdemeanor to print, publish or broadcast identifying information about victims of sexual offenses without the consent of the victim.

Sections 566.010, 566.085 and 566.100, RSMo Supp. 1990

#### **HCS SCS SJR #8 CRIME VICTIMS' RIGHTS**

The proposed amendment would provide crime victims with certain constitutionally protected rights. These include the right to restitution, to a speedy disposition of their case, to protection, to prior notification of defendant's release, to receive information about the criminal justice system, to have relevant evidence heard, and to be present at and informed of any relevant criminal justice proceedings. Certain defendants (those who pose a danger to a crime victim, the community, or any other person) may be denied bail. Private causes of action may be created by statute. Article I

## **HCS HB 185 CHILD DEATH REVIEW TEAMS**

This legislation establishes child death review teams in every county. The teams will include prosecuting or circuit attorneys, the coroner/medical examiner, law enforcement personnel, Division of Family Services personnel, and a representative of the juvenile court. The team will investigate cases referred to it by the coroner/medical examiner based on a protocol for suspicious circumstances promulgated by the Department of Social Services.

Knowing failure by the coroner/medical examiner to refer a suspicious death is a class A misdemeanor.

Unsubstantiated reports of abuse and neglect will not be destroyed until five years from the date of the report or the closing of a case, whichever is later. Currently, these reports are destroyed after 90 days.

Sections 194.117 and 210.115, RSMo 1986 and 210.150 and 210.152, RSMo Supp. 1990.

## **HB 566 CRIMINAL RECORDS REPORTING/HOUSE ARREST/MARITAL RAPE**

Adds to the reportable criminal records by requiring the reporting of sexual offense cases where the defendant pleads guilty to an offense involving a child under 17 and the court imposes a suspended imposition of sentence. Also allows the Highway Patrol to provide the criminal history for sexual offenses to a youth service agency when that person has given written consent to the agency to acquire such information.

The legislation also authorizes the St. Louis City jailer to establish a program of house arrest to be used for pretrial detainees or persons serving sentences.

Counties and St. Louis City are authorized to assess an additional \$1.00 for each county or municipal ordinance violation case filed before a municipal division judge or associate circuit judge to be used to fund shelters for victims of domestic violence.

The defense of marriage is removed from the crimes of rape, sodomy and sexual abuse in the first degree.

Sections 221.105, RSMo 1986 and 43.506 and 43.540, 566.010, 566.085 and 566.100, RSMo Supp. 1990

## **SCS HB 568 MENTAL HEALTH**

This bill relates primarily to responsibilities of the Department of Mental Health. It also contains a provision which raises the level of proof that a

person in a mental health facility who has been acquitted of certain criminal offenses by reason of mental defect or disease must demonstrate to be unconditionally released, from a preponderance of the evidence to clear and convincing evidence.

Sections 552.040, RSMo 1986 and 630.003, RSMo Supp. 1990

## **DOMESTIC RELATIONS**

### **SB 312 ISSUANCE OF SUMMONS IN DOMESTIC RELATIONS**

Provides that no issuance of a summons shall be required in a domestic case where the respondent files an entry of appearance or other pleading which waives the issuance of the summons.

Section 452.311, RSMo Supp. 1990

## **ETHICS**

### **CCS HCS SCS SB 262 ETHICS/FINANCIAL DISCLOSURE/CONFLICT OF INTEREST**

This legislation creates a six-member bipartisan Missouri Ethics Commission, with appointments made by the Governor. The Commission is to receive and audit lobbyists' registration and expenditure reports, campaign finance disclosure reports and financial interest statements. The Commission is also to receive, review and investigate complaints alleging conflict of interest and to make recommendations and issue advisory opinions regarding ethical conduct.

The Clerk of the Supreme Court or the State Courts Administrator is to provide a list of retired judges from which a pool of special investigators may be selected. A list of judges who are qualified and available for appointment is to be updated at least annually by the Commission. Cases will be assigned at random to the special investigators; no more than one case will be assigned to each investigator at a time. The investigators can issue subpoenas and subpoenas duces tecum; if not obeyed, the investigator may apply for a show-cause order.

Compensation for retired judges who serve as special investigators is to be at rates provided for senior judges under 476.682, RSMo. These judges are to certify time spent, dates of service and expenses to the State Courts Administrator.

Situations which appear to involve criminal violations are referred to a special prosecutor appointed by the court in whose jurisdiction the alleged violation occurred. Findings and conclusions involving noncriminal violations may be referred to the appropriate disciplinary authority, which for the judiciary is the Commission on Retirement, Removal and Discipline or the presiding judge. If the disciplinary authority does not follow the Ethics Commission's recommendations, a civil action may be initiated.

Criminal charges may be filed against persons who file complaints maliciously or without just cause and against persons who violate confidentiality requirements surrounding the Commission's investigations.

The legislation also amends the requirements for financial interest disclosure. Reports by judges are to be filed with the Clerk of the Supreme Court; the Clerk is to make these reports available for public inspection unless otherwise provided by Supreme Court rule. A record is to be kept of all persons inspecting or copying the statements.

Late filing fees are provided for campaign finance disclosure reports and financial interest statements. If assessed a late filing fee, review may be sought either by the Administrative Hearing Commission or the Cole County Circuit Court.

Definitions and reporting requirements involving lobbyists are amended. Civil penalties are provided for employing an unregistered lobbyist or a lobbyist convicted of violating laws governing lobbyists' activities. The Cole County Prosecuting Attorney's Office is to be reimbursed for investigations and prosecutions of lobbying violations.

Sections 105.450, 105.454, 105.468, 130.056, 130.061, 130.066, 130.067, 130.068, 130.086, and 561.021, RSMo 1986 and 105.452, 105.456, 105.470, 105.474, 105.476, 105.478, 105.483, 105.485, 105.487, 105.489, 105.491, 105.492, 130.011, 130.016, 130.026 and 130.051, RSMo Supp. 1990.

## **JUVENILE**

### **HB 140 JUVENILE COURT EMPLOYEES/WORKERS' COMPENSATION**

This bill relates in part to health insurance for county employees and immunity from discipline for physicians and pharmacists in certain instances.

The bill also broadens the definition of "state employee" in sections 105.800 to 108.850, RSMo (Workers Compensation for State Employees) to include all juvenile court personnel whether compensation for such personnel is paid by the state, the judicial circuits, the counties or a combination thereof.

Sections 105.800, RSMo 1986 and 67.150 and 376.427, RSMo Supp. 1990

### **SCS HCS HBs 202 & 364 TEMPORARY DRIVER'S PERMIT**

This bill will allow temporary driving permits for teens at the age of fifteen and one-half as long as the licensed operator accompanying the driver is a parent or guardian. Juvenile courts no longer have jurisdiction over fifteen and one-half year olds who have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony.

The legislation also provides that social security numbers are to be used as driver license numbers after March 1, 1992.

Driver licenses may be reinstated without the \$20.00 fee if the driver has failed to pay the reinstatement fee for two years after the effective date of any suspension or revocation under Chapter 302. Drivers who become residents of another state and who are otherwise eligible for a driver's license in that state need not file the Missouri proof of financial responsibility or complete an alcohol program.

Sections 142.366, 211.031, 302.171, 302.181 and 302.304, RSMo Supp. 1990

## **MISCELLANEOUS**

### **SB 250 SHERIFFS' FEES**

This bill raises certain sheriffs' fees in civil cases as follows (the bracketed number is the old fee; underlined words indicate new language):

For serving every summons or original writ and returning the same for each defendant .....[\$10.00] \$20.00

For serving a writ or order of injunction or any other order for each defendant .....[\$10.00] \$20.00

For levying every execution or serving by writ in aid thereof including writs of attachment and garnishment .....[\$12.50] \$20.00

Please note that the fee for serving a writ of attachment has been increased; the fee for serving a writ of scire facias remains the same at \$10.00.



For making, executing and delivering a sheriff's deed to be paid by the purchaser, all tracts of land purchased at the same sale to be included in one deed, if the purchaser desires it .....[\$12.50] \$20.00

For every return of non est on a writ original or judicial .....[\$10.00] \$20.00

For return of nulla bona .....[\$5.00] \$10.00

For serving every notice or rule of court, notice to take depositions or citation .....[\$10.00] \$20.00

The bill also changes mileage reimbursements for sheriffs and their deputies in third and fourth class counties for serving warrants or any other criminal process from a maximum of twenty cents to a maximum of twenty-five cents. The same increase is made for necessary and actual expenses.

Sections 57.430, RSMo 1986 and 57.280, RSMo Supp. 1990

### **CCS HCS SCS SB 358 MILITARY SERVICE/CHILD SUPPORT MODIFICATION**

This bill provides certain exemptions for persons in the regular armed forces and for persons called to active military duty for an extended and indefinite period of time.

The exemptions include postponement or time extensions for motor vehicle licensing requirements, professional licensing requirements, traffic violations, and income and property tax obligations.

The bill also establishes pay and benefit allowances for guard members who perform military duty. Guard members shall not receive state pay when eligible for federal pay.

The bill also provides that, whenever a parent in emergency military service has a change in income due to such military service, such change in income shall be considered a change in circumstances so substantial and continuing as to make the terms of any order or judgment for child support or visitation unreasonable. Upon receipt of a notarized letter from the commanding officer of a noncustodial parent in emergency military service, the director of the division of child support enforcement shall take appropriate action to seek modification of the order of judgment of child support in accordance with the guidelines and criteria set forth in supreme court rule 88.01. Such notification to the director shall constitute an application for services under section 454.425, RSMo. Upon return from emergency military service, the parent shall notify the director of the division of DCSE who shall take appropriate action to seek modification of the order or judgment of child support. Such notification shall constitute an application for services under section 454.425, RSMo.

Sections 40.043, 41.160, 41.470, 41.940, 335.081, 442.160, 474.337 and 492.070, RSMo 1986.

## **PROBATE**

### **CCS HCS SB 148 DURABLE POWER OF ATTORNEY**

This act adds to existing law the authorization for an attorney in fact to consent to or prohibit health care in accordance with provisions established in this act. A grandfather clause for durable power of attorney documents permitting health care decisions executed prior to the effective date of this act is also included.

Section 404.710, RSMo Supp. 1990

### **HB 218 HEAD INJURY REHABILITATION**

This legislation will create the "Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services" within the Department of Health. The proposal will require the probate division of the circuit court to notify the director of the existence of an estate of a patient receiving services. The proposal will also allow for an appeal to the circuit court of a decision by the director to discharge the patient for failure to pay by the conservator.

Sections 199.010, 199.030, 199.040, and 199.250, RSMo 1986

## **STATE EMPLOYEES**

### **SS HB 125 STATE EMPLOYEES' RETIREMENT HS HB 129 STATE EMPLOYEES' RETIREMENT**

Both of these bills have provisions which permit members of MOSERS and the Highway Retirement System to retire with a normal annuity when the sum of their age and years of creditable service equals eighty or more if that total is reached prior to January 1, 1993, and the application for retirement is made within three months after the effective date of this section or within three months after the date he attains eligibility, whichever later occurs. Both bills also contain a provision permitting MOSERS members to obtain prior service credit for service as a juvenile or deputy juvenile officer.

HB 129 contains a provision which provides that any member of MOSERS who is an employee of the state for a circuit court on the effective date of the act, and who was previously employed by any political subdivision of this state under a public employee's retirement other than MOSERS but was not vested in such other retirement system shall receive creditable prior service in MOSERS for such employment.

HB 125 affects sections 56.800, 56.805, 56.807, 56.809, 56.816, 56.818, 56.823, 56.835, 104.080 and 104.380, RSMo Supp. 1990

HB 129 affects sections 70.656 and 150.050, RSMo 1986 and sections 52.290, 70.646, 70.655, 70.705, 70.707, 104.080 and 104.380, RSMo Supp. 1990